



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

25-CR-0879 JB

HERIBERTO SALAZAR AMAYA,

Defendant.

ORDER

THIS MATTER is before the Court on the Motion to for Substitution of Counsel (*Doc. 198*), filed by Attorney Michael V. Severo on May 30, 2025. For the reasons set forth below, the Court will take this Motion under advisement.

Defendant Amaya expressly requested appointment of counsel at both his initial appearance in the State of Oregon and upon his arrival here in the charging District of New Mexico. Because his affidavit testimony demonstrated that he is indigent and cannot afford to hire an attorney, this Court appointed CJA Attorney Brock Benjamin as his counsel who then represented him at his arraignment and detention hearing.

In the instant Motion to Substitute, California-based Attorney Severo states that he was “recently retained to represent Mr. Salazar Amaya” and that the United States takes no position on the Motion. *Doc. 198* at 2. The Court takes judicial notice that Attorney Severo only just applied to practice in this District three days before filing the instant Motion and was granted that privilege on May 28, 2025.

At my request, CJA Attorney Benjamin filed a Response (*Doc. 200*) which “urges this court to accept the substitution of retained counsel” as it is a defendant’s Sixth Amendment right. But appointed counsel does not indicate that he consulted with his client about the motion to ascertain if Mr. Salazar Amaya now desires to relinquish his right to appointed counsel. Indeed, Mr. Benjamin merely indicates that “[i]t appears that Mr. Salazar or his family have hired Mr. Severo” without any confirmation that Defendant Salazar Amaya is even aware of the substitution motion. *Id.* at 3 (emphasis added).

This Court is unwilling to permit the withdrawal of appointed counsel unless it receives Mr. Benjamin’s assurance that he has consulted with his client, that Mr. Salazar Amaya specifically expresses his desire to substitute Attorney Severo as his counsel of record, and that the defendant is voluntarily withdrawing his request to be represented by counsel appointed by the Court. After such consultation, Mr. Benjamin shall file a supplemental response to the Motion with the Court.

IT IS SO ORDERED.


UNITED STATES MAGISTRATE JUDGE